



Appeal Decision

Site visit made on 25 August 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2020

Appeal Ref: APP/Z5060/C/19/3229966 23 Suffolk Road, Dagenham RM10 8EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Olu Adelowotan against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
- The enforcement notice was issued on 3 May 2019.
- The breach of planning control as alleged in the notice is, without planning permission, the change of use of an outbuilding in the rear garden to an education centre.
- The requirements of the notice are (1) Cease the use of the outbuilding as an education centre; and (2) Remove all subsequent waste material from the land.
- The period for compliance with the requirements is one month after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary matters

1. The appellant describes the use as an after school and Saturday club for supervised homework and reading for school children between the ages of 5 and 16 in the local community. This, and his willingness to accept a planning condition limiting the use to an after-school homework club and prohibiting use as a nursery or day care centre will be considered in the appeal on ground (a). However, for brevity I shall refer to the use as the educational use.
2. The notice alleges the change of use of an outbuilding in the rear garden. I saw that there were 3 separate but abutting outbuildings in the rear garden. The largest of these, at the foot of the garden, was in use as an education centre and the outbuilding nearest the house was in use for domestic storage. The small outbuilding between them appeared to be a home office, although the appellant has confirmed recent storage of chairs and desks from the education centre. I am satisfied that the notice can be corrected without injustice to only apply to the largest outbuilding and I shall consider the appeal on that basis.
3. The second requirement of the notice, to remove all subsequent waste material from the land, does not follow from the first requirement, to cease the use, and is therefore excessive. However, I am satisfied that the notice can be varied to remove the second requirement without causing injustice.

The Appeal on ground (a)

4. The main issues in this appeal are:

- The effect of the educational use on the character and appearance of the area and the host dwelling.
- The effect of the educational use on the living conditions of near neighbours.
- The effect of the educational use on highway safety.
- The adequacy of the outbuilding for the educational use.

Reasons

Character and appearance

5. Suffolk Road is a quiet street of terraced and semi-detached housing within a residential area, with public transport connections nearby. The change of use has not involved new buildings but the change in the character of the use of the outbuilding has the potential to have a different effect on the character of the area, primarily through comings and goings and if any outside activity were involved.
6. The outbuilding is reached by means of a side gate, affording a generally level paved access. Seventeen local parents whose children have attended the education centre wrote in support. All but 2 stated that their children walked there, or that they live within walking distance, and one stated that their child travelled there by public transport.
7. In line with evidence presented by the appellant, the outbuilding operates as an after-school homework club between 16:00 and 18:50 on weekdays, and between 10:00 and 14:20 on Saturdays, and at no other time. The appellant also confirms this does not involve any external activity. This corresponds to the way the use has been described by parents and neighbours. Viewed on this basis, it is apparent that the educational use has been operated to avoid a material change in the character and appearance of the area. While the educational use affects the character of the host dwelling, as it is not ancillary to the residential occupation, this has been within the limited hours of operation and, viewed overall, there has not been a substantial or detrimental change in the character of the dwelling.
8. For these reasons I find that the educational use is sustainable and accessible, located close to the community it serves, and protects the character and amenity of the area. It therefore accords with policy CC2 of the Barking and Dagenham Core Strategy 2010 (the CS) and policy BP11 of the Borough Wide Development Policies Development Plan Document 2011 (the DPDPD).

Living conditions

9. Although not stated in its reasons for issuing the notice, the Council contends that the educational use generates noise and disturbance to adjoining neighbours. No evidence is presented in support of this, whereas 5 residents of Suffolk Road, including the immediate neighbours either side, have confirmed that they have not experienced any disturbance as a result of the educational use. The appellant states that the outbuilding has acoustic insulation, although

no details of this are provided. However, I did see that external doors and windows are double glazed and that the rear wall, facing in the direction of houses in Norfolk Road, only has small high-level windows. The doors and windows facing onto the rear garden do not afford views into neighbouring gardens due to fences on the common boundaries.

10. As noted, the educational use has operated during limited hours and has not involved the use of external areas. Furthermore, as described by the appellant, neighbours and parents, only a small number of children, normally no more than 6, have attended at any one time.
11. For these reasons, the educational use has not led to significant overlooking or loss of privacy and has not exposed neighbours to unacceptable noise pollution or general disturbance. It has therefore maintained residential amenity in accordance with DPDPD policy BP8.

Highway safety

12. There is no vehicular access to the outbuilding and on-street parking is restricted to residents for much of the week. Dropping-off and picking-up of children by parents would therefore involve stopping or parking on the road, which could obstruct it and prejudice pedestrian and vehicular safety.
13. The evidence from parents of children attending the education centre indicates that it serves the local area. The site is a short walk from bus stops and the nearest underground station and is therefore easily accessed by public transport and pedestrians. I saw that there are cycle lanes on Rainham Road South and the surrounding area is relatively flat, and therefore conducive to cycling. As noted, parents indicate that their children normally walk or use public transport to get to the site and some neighbours confirm that children walk to and from it. The appellant also collects some children, confirmed by parents' letters.
14. Accordingly, the potential for impact on the surrounding transport and road network is limited. As such, the educational use of the outbuilding accords with DPDPD policy BR10, which seeks to reduce the need to travel and encourages modal shift away from the private car towards healthy and sustainable transport initiatives and choices.

Adequacy of the outbuilding

15. Whether the outbuilding provides an environment of sufficient quality for the educational use is largely dependent on the number of children in attendance. The appellant, neighbours and parents confirm that normally no more than 6 children attend at any one time. This does not appear to constitute over-occupation when considered against national guidelines for primary school classroom sizes.
16. Whilst the outbuilding pre-dates the educational use, I saw that it does not include any special features that might be unique to that use. It is therefore functional, durable, flexible and adaptable in its design and layout and does not conflict with CS policy CP3, which seeks to achieve high quality standards in the design and layout of new buildings and spaces.

Conditions

17. It is not possible to separate the support expressed by neighbours from the way in which the educational use has operated. Accordingly, the suggested condition limiting the educational use of the outbuilding to an after-school homework club and prohibiting its use as a nursery or for day care is necessary to ensure the living conditions of neighbours can be safeguarded in the event of the deemed planning application being granted.
18. The appellant has also suggested conditions to restrict the educational use to the outbuilding at the foot of the garden and prohibit use of the outdoor space, and to limit the hours of use to between 16:00 and 18:50 on weekdays and between 10:00 and 14:20 on Saturdays. These conditions would also be necessary to ensure that satisfactory living conditions can be maintained for neighbouring residents if the deemed planning application were granted.

Conclusions

19. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice with a correction and a variation.
20. In these circumstances, the appeal on ground (g) does not fall to be considered.

Formal Decision

21. It is directed that the enforcement notice is corrected by the deletion of the words "an outbuilding in" and their replacement with the words "the outbuilding at the foot of" in section 3.
22. It is further directed that the enforcement notice is varied by deleting the words "Remove all subsequent waste material from the land" from section 5.
23. Subject to the correction and variation the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use as an education centre at 23 Suffolk Road, Dagenham RM10 8EU as shown on the plan attached to the notice and subject to the following conditions:
 - 1) The education centre hereby permitted shall comprise an after-school homework club only and shall not operate as a nursery or for day care.
 - 2) The use as an education centre shall only take place within the outbuilding at the foot of the rear garden.
 - 3) The education centre shall only operate between 16:00 and 18:50 Monday to Friday, excluding public holidays, and between 10:00 and 14:20 on Saturdays, and at no other time.

Mark Harbottle

INSPECTOR